

REMARKS

In the Final Office Action of May 4, 2006, claims 1-5, 7-8, and 10-22 are pending. Claims 1 and 14-15 are independent claims from which all other claims depend therefrom. Claims 1, 2, 3, 7, 10-11, and 14 are herein amended. Claim 4 is herein canceled.

The Office Action states that claims 1, 3, and 10 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. With respect to claims 1 and 3, the Office Action states that the limitation of "...said controller functions comprising non-idle air valve related functions" is unclear. Applicant submits that the stated limitation, although herein removed from claims 1 and 3, referred to functions that are performed and that do not pertain to an idle air valve, as disclosed in Page et al. (U.S. Pat. No. 6,499,455). Nevertheless, the limitation has been removed from claim 1.

With respect to claims 3 and 10, the Office Action states that the limitation "said throttle-controlled device" lacks antecedent basis.

Applicant submits that "a throttle-controlled device" was and is recited in claim 3 prior to "said throttle-controlled device". Applicant submits that it is permissible when referring to a previously mentioned item to shorten the length of the name of that item, as long as it is clear which item is providing the antecedent basis. This simplifies the text and allows for easier reading. There is only one throttle-controlled device mentioned in the stated claims and elsewhere. Thus, it is clear which throttle-controlled device provides antecedent basis. However, claims 3, 7, 10, and 11 are herein amended to recite "a single throttle-controlled device" and "said single throttle-controlled device".

Claims 1-3, 10, 14, 21, and 22 stand rejected under 35 U.S.C. 102(e) as being anticipated by Slopsema et al. (U.S. 2002/0179031 A1).

Claims 1 and 14 are herein amended to include the novel limitations of claim 4. The Office Action admits on page 7 that Slopsema fails to teach a switch coupled to the ignition enabling device and a fuel supply system. Thus, Slopsema fails to teach or suggest each and every element of claims 1 and 14, therefore, claims 1 and 14 are novel, nonobvious, and are in a condition for allowance at least in view of Slopsema. Since claims 2-3, 10, 21, and 22 depend from claim 1, they too are novel, nonobvious, and are in a condition for allowance.

The Office Action does state, however, that Boggs et al. (U.S. Pub. No. 2002/0165660) teaches the stated switch limitation. Applicants, respectfully, traverse. The Office Action states that Boggs teaches a switch that is coupled to an ignition-enabling device and a fuel supply system wherein an engine controller disables the fuel supply system upon the ignition-enabling device being switched OFF and refers to items 40 and 46, Figure 4, and paragraphs 24 and 38. Applicants are unable to find anywhere in the stated Figure or paragraphs the mention of a switch, the mention of a switch that is coupled to an ignition-enabling device and a fuel supply system, or the mention of disabling a fuel supply system upon switching to an OFF position.

In Figure 4, Boggs discloses a timing sequence for stage two of a controlled engine shutdown. Stage 2 occurs towards the end of stage 1, which is invoked by the tripping of a key to OFF. Also, fuel injector shutdown occurs somewhere in the middle of stage 2. The fuel injectors are not disabled upon tripping of the key.

In paragraph 24, Boggs simply lists the tasks that are performed during an engine shutdown. Paragraph 24 states that fuel injectors are ramped off, but does not specifically state when this occurs.

In paragraph 38, Boggs states that power is sustained, or maintained, to the controllers, to the ignition system, and to the fuel system during a power sustain feature after a key is switched OFF.

Neither Slopsema nor Boggs, teach or suggest the switch claimed or the switching off of a fuel supply system as claimed, and especially not in

combination with the maintaining of controller functions for an internal combustion engine.

With respect to claim 2, Slopsema fails to teach or suggest the maintaining of a camshaft position function, a crankshaft position function, a remote start position function, and a drive-by-wire function. Thus, claim 2 is further novel and nonobvious for the stated reasons.

Claims 4 and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema and Boggs.

Applicants note that claim 4 is herein canceled. Also, since claim 13 depends from claim 1, it is novel, nonobvious, and is in a condition for allowance for the above-stated reasons.

As well, Applicants note that both Slopsema and Boggs are considered 102(e) type references, which are being combined and used in a 103(a) type rejection. Applicants submit that because only 102(e) type references support the 103(a) rejection, it would not have been obvious to combine the references at the time of the invention. Referring to MPEP 2136.02, the Supreme Court has authorized 35 U.S.C. 103 rejections based on a 35 U.S.C. 102(e) reference. The MPEP states that U.S. patents may be used as of their filing dates to show that the claimed subject matter is anticipated or obvious. The MPEP further states obviousness can be shown by combining other prior art with the U.S. patent reference in a 35 U.S.C. 103 rejection see *Hazeltine Research v. Brenner*, 382 U.S. 252, 147 USPQ 429 (1965). Thus, clearly it is appropriate to combine a 102(e) type reference with another type of prior art reference in a 103 rejection. The MPEP does not state that it is appropriate to combine solely 102(e) references in a 103 rejection. This is also evident in review of *Hazeltine* in which a 102(e) reference was combined with another reference that issued prior to the application in issue in *Hazeltine*.

Applicants further submit that it would not have been obvious to combine Slopsema and Boggs to arrive at the claimed invention, since the Patent Office holds applications in secret and inaccessible to others until the

publishing and/or issuance thereof. In this case, the inventor of the present invention did not have access to either Slopsema or Boggs and thus could not have made the combination as suggested by the Office Action. Thus, Applicants submit that it would not have been obvious or even possible to combine the stated references to arrive at the claimed invention. Thus, claim 13, as well as claims 1 and 14, is further novel and nonobvious for the above-stated reasons.

Claims 5 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema and Page.

Since claims 5 and 7 depend from claim 1, they are also novel, nonobvious, and are in a condition for allowance for the above-stated reasons.

Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema and Hawkins (U.S. Pub. No. 2004/0262995 A1).

Since claim 8 depends from claim 1 and since Slopsema and Hawkins are both 102(e) type references, claim 1 is also novel, nonobvious, and is in a condition for allowance for the above-stated reasons.

Claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema and Fukushima et al. (U.S. Pub. No. 2003/0056753 A1).

Since claim 11 depends from claim 1 and since Slopsema and Fukushima are both 102(e) type references, claim 11 is also novel, nonobvious, and is in a condition for allowance for the above-stated reasons.

Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema and Bakholdin et al. (U.S. Pub. No. 2002/0157881).

Since claim 12 depends from claim 1 and since Slopsema and Bakholdin are both 102(e) type references, claim 12 is also novel, nonobvious, and is in a condition for allowance for the above-stated reasons.

Claims 15-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema and Flick (U.S. Pub. No. 2003/0141986 A1).

The Office Action states that Slopsema fails to teach the controller functions recited in claim 15. Applicants agree. However, the Office Action states that Flick teaches the remote start functionality. Applicant submits that

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since Slopsema and Flick are both 102(e) type references, that claim 15 is novel, nonobvious, and in a condition for allowance for the above-stated reasons. Also, since claims 16-17 depend from claim 15, claims 16-17 are also novel, nonobvious, and are in a condition for allowance for at least the same reasons.

Claims 18 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema, Flick, and Page.

Since claims 18 and 20 depend from claim 15 and since Slopsema and Flick are both 102(e) type references, claims 18 and 20 are also novel, nonobvious, and is in a condition for allowance for the above-stated reasons.

Claim 19 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema, Flick, and Fukushima.

Since claim 19 depends from claim 15 and since Slopsema, Flick, and Fukushima are all 102(e) type references, claim 19 is also novel, nonobvious, and is in a condition for allowance for the above-stated reasons.

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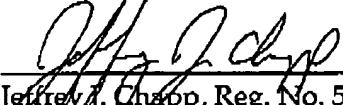
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In light of the amendments and remarks, Applicants submit that all the rejections are now overcome. The Applicants have added no new matter to the application by these amendments. The application is now in condition for allowance and expeditious notice thereof is earnestly solicited. Should the Examiner have any questions or comments, he is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

ARTZ & ARTZ, P.C.



Jeffrey J. Chapp, Reg. No. 50,579
28333 Telegraph Road, Suite 250
Southfield, MI 48034
(248) 223-9500

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